

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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VICTOR SMITH,

Plaintiff,

vs

9:07-CV-1264

BRIAN FISCHER, Commissioner, NYS DOCS;  
S. CONNELL, Superintendent, J. BADGER,  
DSA, and K. ADAMIK, Captain, Each of Oneida  
Correctional Facility; I. LOMBARDO, Acting  
Superintendent, A. LABROIA, DSS, Each of  
Orleans Correctional Facility; and MR. NAUGHTON,  
Oneida Correctional Facility, DSS,

Defendants.

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APPEARANCES:

VICTOR D. SMITH  
Plaintiff, pro se  
Apt 3  
21 Mill Street  
Sodus, New York 14551

HON. ANDREW M. CUOMO  
Attorney General of the  
State of New York  
Attorney for Defendants  
Department of Law  
The Capitol  
Albany, New York 12224

ROGER W. KINSEY, ESQ.  
SHOSHANAH V. BEWLAY, ESQ.  
Asst. Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Plaintiff, Victor Smith commenced this civil rights action in December 2007, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated November 24, 2009, the Honorable George H. Lowe, United States Magistrate Judge, recommended that defendants'

motion for to dismiss for failure to state a claim (Docket No. 38) be granted without leave to amend. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Lowe, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

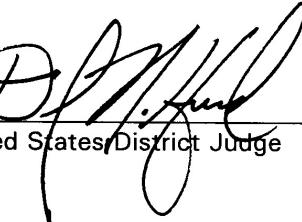
Accordingly, it is

ORDERED that

1. The defendants' motion to dismiss for failure to state a claim is GRANTED;
2. Plaintiffs' complaint is DISMISSED; and
4. The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: January 11, 2010  
Utica, New York.



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United States District Judge